

## **103 AWARD AND EXECUTION OF CONTRACT**

Most of the provisions in this section of the Standard Specifications deal with the procedures both the Contractor and ADOT must follow in awarding and executing an ADOT construction contract. The Department's Contracts and Specifications Section (C&S) handles these administrative procedures and provides the Field Office with a copy of the Contractor's executed contract.

It is important for the resident to check with C&S to ensure the contract has been fully executed before any work begins. An executed contract is a means of ensuring the Contractor has met all the bonding and insurance requirements before working within the Department's right-of-way.

When bids close on a project, C&S reviews each bid for completeness and accuracy in order to determine the lowest responsible bidder. They check for unbalanced bid items, unit price extensions, insurance arrangements, and bonding capacity. C&S makes a recommendation to the State Engineer as to who is the apparent low bidder. The State Engineer, in consultation with the Director, makes a recommendation to the State Transportation Board for awarding of the construction contract. The Board reserves the right to table or reject the recommendation.

When a contract is to be awarded, the State Transportation Board makes the award in an open public meeting. An award letter is then sent to the Contractor, and a copy is sent to the assigned Field Office for the contract. It is important for the Field Office to have a copy of this award letter in its files since contract time is based on the date of this award letter (see Subsection 108.02).

The Field Office should avoid any official communications with the Contractor until after the award. Early communication with the Contractor might create the perception that ADOT staff favors one Contractor over another. This problem can become particularly acute when a contract bid is under protest. Award may be delayed while the Contractor obtains appropriate licenses for Federal Aid projects in accordance with requirements in the Special Provisions.

Any protests or inquiries a Field Office receives regarding a Contractor's bid or the awarding of a contract should be referred to C&S.

### **103.08 Execution of Contract**

Subsections 103.08 and 103.09 of the Special Provisions may require the Contractor to "Quick Start" the project. Quick start reduces the time it takes to award the project, but it does not mean the Field Office can have early communication with the Contractor prior to award (see above). If the Contractor fails to quick start, the project may be awarded to the next responsible bidder, or re-advertised.

### **103.11 Escrow of Bid Documentation**

On large projects and projects of a special nature, the Contractor may be required by the Special Provisions to place in storage at a local bank or escrow office all records, quotes, reports, drawings, and calculations used in determining the bid. These bid documents can then be used later as a means of analyzing the effects of project delays, plan omissions, time extensions, and other substantial changes to the Contractor's costs. See Subsection 101.02 Bid Documentation, and 103.11(D) Format and Contents, for what type of documentation is required.

The Resident Engineer's use of escrowed bid documents in resolving contract claims can be very limiting since the Contractor has control over the Department's access to these documents. If the Resident Engineer would

like to compare a Contractor's cost analysis of a particular change with bid prices, the Resident Engineer can't use the bid documents without the Contractor's permission. The Contractor should release documents when requesting additional compensation, or an extension of time based on their bid in accordance with Subsection 103.11(C). The Contractor may place restrictions on what you can see before permission is granted. The intention here is to not allow the Department to take unfair advantage of the Contractor's bid. In competing to be the lowest bidder, the Contractor assumes much financial risk. It is not the Department's intention in escrowing bid documents to remove all of the financial rewards that go with assuming the risk. Instead, the intent of the escrowed bid documents is to verify certain costs the Contractor may have or is expected to incur.

Bid documents are best used when the Contractor is trying to prove that the Department is not paying twice for the same work. They can also be used for determining overhead rates and profit margins. Bid documents should not be used as a means of adjusting prices just because the Contractor performed the work at a cost over or under the bid amount.

Bid documents should be returned to the Contractor only when all claims and unresolved issues have been settled. This may occur long after the project has been accepted and final documentation is submitted.